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(37)
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 1071 121

ROGER EVIN JONES,

Appellant,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA

APPEAL FROM THE DISTRICT COURT OF APPEAL, SECOND APPELLATE
DISTRICT, STATE OF CALIFORNIA.

STATEMENT AS TO JURISDICTION.

MORRIS LAVINE,
Counsel for Appellant.

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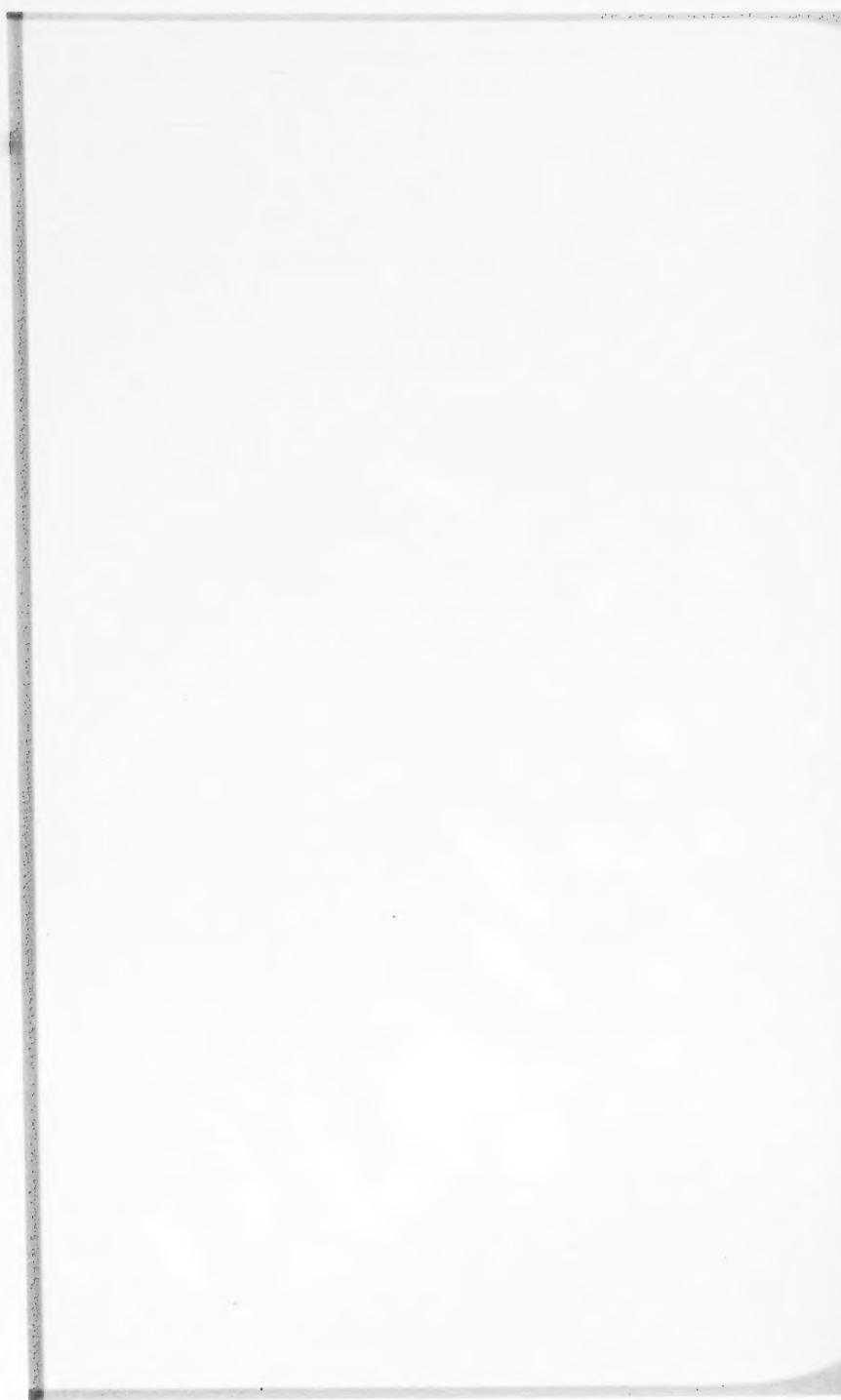
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IN THE DISTRICT COURT OF APPEAL OF THE STATE
OF CALIFORNIA, SECOND APPELLATE DISTRICT,
DIVISION TWO. AND IN THE SUPREME
COURT OF THE UNITED STATES

Calif. Crim. No. 3693

ROGER EVIN JONES, *Appellant*,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA, *Appellee*.

STATEMENT OF JURISDICTION ON APPEAL.

In compliance with Rule 12, appellant herewith presents his statement of jurisdiction on appeal:

A.

The statutory provisions which sustain jurisdiction are Section 237 Judicial Code, 28 U. S. C. A. 344 as amended by Act of January 31, 1928, Chap. 14, Stats. 54, an Act of April 26, 1928, Chap. 440, 45 Stats. 466.

B.

The questions involved in this case are the following:

The Fourteenth Amendment to the Constitution of the United States provided, “* * * nor shall any state de-

prive any person of life, liberty or property without due process of law.”

The question therefore arises under this Amendment whether the defendant has been deprived of due process of law by the provisions of sections 950, 951 and 952 of the Penal Code of the State of California, inherently and as construed and applied in this case.

Also, whether a trial of a defendant under three conflicting statutes of the Penal Code, involving different or conflicting elements of the crimes alleged, can be consolidated under one heading under these three different and conflicting sections, and in this manner violate due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States.

The statutes involved under this construction are sections 484, 492, 503, 511 and 532 of the California Penal Code, and the question involved is whether these sections, inherently, and as construed and applied in this case, are violative of the Fourteenth Amendment to the Constitution of the United States.

Another question involved is whether the turning over of books and records by the Federal Securities and Exchange Commission, after it had subpoenaed these books and records under a subpoena duces tecum under federal law, to a state court to be used in a state action against the defendant, violated his rights under the Fourteenth Amendment to the Constitution of the United States.

A further question involved in this case is whether the transactions of which the defendant was convicted were anything more than civil transactions.

The case also involves the question as to whether the defendant was denied a fair trial when evidence was put into the case against him which was not charged against him in any indictment.

The case also involves the question of whether the defendant was accorded a fair trial as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

A further question involved is whether the defendant's having been taken to the district attorney's office for questioning, and having declined to make any statements to the district attorney, could be used against him, although such a procedure is in violation of the provisions of Article I, section 13 of the Constitution of California, which is similar to the provisions of the Fifth Amendment to the Constitution of the United States, and which has received a contrary interpretation by the United States Supreme Court.

C.

The opinion of the District Court of Appeal of the State of California was rendered on December 6, 1943, and a petition for hearing was denied by the Supreme Court of California on January 6, 1944. The petition for appeal, assignment of errors and prayer for reversal were filed in the District Court of Appeal of the State of California on January 13, 1944.

D.

Nature of Case and Rulings Below.

The nature of the case has been set forth under "B" above.

The Superior Court, during the trial of the case, ruled against the claimed violations of the defendant's rights under the Fourteenth Amendment. The District Court of Appeal of the State of California affirmed the judgment of the Superior Court on December 6, 1943.

In his petition to the California Supreme Court the appellant again challenged the opinion of the District Court

of Appeal and the rulings therein which affirmed the actions of the Superior Court, as denying to appellant due process of law as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

Appellant also raised, both in the District Court of Appeal and in the Supreme Court, the validity of the proceedings under the various statutes named above in "B".

Appellant also challenged the rulings of the court below, as to whether he had been denied a fair trial guaranteed by the Fourteenth Amendment when each and all of his instructions on his theory of the case were denied in the Superior Court in the trial of the case.

Respectfully submitted,

MORRIS LAVINE,
Attorney for Appellant.

Statutes and Cases Believed to Sustain Jurisdiction.

Title 28, Section 344, United States Codes Annotated:

Lisenba v. California, 86 L. Ed. 179;
Whitney v. California, 274 U. S. 357;
Fiske v. Kansas, 274 U. S. 380;
Stromberg v. California, 283 U. S. 359;
Galpin v. Page, 18 Wall. (U. S.) 350;
Powell v. Alabama, 287 U. S. 45, 77 L. Ed. 158;
Mooney v. Holohan, 294 U. S. 103, 79 L. Ed. 791.

